

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

S.M., A MINOR, by her next friend, ALISON KING,

Plaintiff,

v.

THE CITY OF NEW YORK and GOOD SHEPHERD SERVICES,

Defendants.

Case No.: 1:20-cv-05164-JPO

ECF Case

ORDER

UPON THE APPLICATION of the parties for an order authorizing the release of records pertaining to Plaintiff S.M., which may be protected from disclosure by the Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d *et seq.* (“HIPAA”) or the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g *et seq.* (“FERPA”);

WHEREAS, the records sought are responsive to discovery requests and non-party subpoenas served by the parties in the above-captioned action;

WHEREAS, the Court has authority to order the release of HIPAA and FERPA-protected records in connection with this action under 45 C.F.R. 164.512(e)(1)(i) (HIPAA implementing regulations specifying that “[a] covered entity may disclose protected health information in the course of any judicial or administrative proceeding: (i) [i]n response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order”) and 34 C.F.R. § 99.31(a)(9)(i)-(ii) (FERPA implementing regulations specifying that “[a]n educational agency or institution may disclose personally identifiable information from an education record of a student without the consent

required by § 99.30” if “[t]he disclosure is to comply with a judicial order or lawfully issued subpoena” and “[t]he agency or institution makes a reasonable effort to notify the parent . . . of the order or subpoena in advance of compliance, so that the parent . . . may seek protective action”);

IT IS HEREBY ORDERED that the records in the possession, custody, or control of the entities specified below shall be released pursuant to 45 C.F.R. § 164.512(e)(1)(i) or 34 C.F.R. § 99.31(a)(9)(i)-(ii):

Records to Be Released	Entity
<ul style="list-style-type: none"> S.M.’s Insurance Records from September 1, 2019 – Present 	Emblem Health 55 Water St. New York, NY 10041
<ul style="list-style-type: none"> S.M.’s Insurance Records from September 1, 2010 – Present 	New York City Department of Social Services Attn: Queens Medicaid Office 32-20 Northern Blvd. 3rd Fl. Queens, NY 11101
<ul style="list-style-type: none"> S.M.’s Entire Psychotherapy Record 	Emma L. Bowen Center 1727 Amsterdam Ave. New York, NY 10031
<ul style="list-style-type: none"> S.M.’s Entire Family Court Record 	New York City Law Department Queens County Office, Family Court Division 151-20 Jamaica Ave. 2nd Fl. Queens, NY 11432
<ul style="list-style-type: none"> Non-Privileged Documents Responsive to RFP Nos. 1 and 2 in Schedule A of Non-Party Subpoena <i>Deuces Tecum</i> served on February 3, 2022 	Hunter College High School 71 E. 94th St. New York, NY 10128
<ul style="list-style-type: none"> Academic Record for Academic Year 2016 – 2017 	J.H.S. Stephen A. Halsey 63-55 102nd St. Queens, NY 11374
<ul style="list-style-type: none"> Non-Privileged Documents Responsive to RFP Nos. 1-5 in Confidential Schedule A of Non-Party Subpoena <i>Deuces Tecum</i> served on March 11, 2022 	NYC Health + Hospitals/Bellevue 462 First Ave. New York, NY 10016
<ul style="list-style-type: none"> Non-Privileged Documents Responsive to S.M.’s First Requests for Production to The City of New York and S.M.’s First Interrogatories to The City of New York 	Defendant The City of New York Administration for Children’s Services 150 William Street New York, NY 10038

Records to Be Released	Entity
Non-Privileged Documents Responsive to S.M.'s First Requests for Production to Good Shepherd Services and S.M.'s First Interrogatories to Good Shepherd Services	Defendant Good Shepherd Services

IT IS FURTHER ORDERED that the records shall be released to Kirkland & Ellis LLP, 601 Lexington Ave., New York, NY 10022; Georgia M. Pestana, Corporation Counsel of the City of New York, 100 Church Street, New York, NY 10007; and Rutherford & Christie LLP, 800 Third Ave., 9th Fl., New York, NY 10022, or their authorized representatives;

IT IS FURTHER ORDERED that the records shall be designated CONFIDENTIAL pursuant to the Protective Order entered by this Court, ECF No. 58, and treated consistent therewith.

SO ORDERED.

Dated: March 25, 2022
New York, NY



J. PAUL OETKEN
United States District Judge